
SENATE BILL No. 287

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-9.1-1-7; IC 4-12-1-12; IC 4-13-1-18.1; IC 12-10-10-12.

Synopsis: CHOICE funding. Provides that community home option to institutional care for the elderly and disabled program (CHOICE) appropriations may not be transferred or used for any other purpose. Authorizes citizens of Indiana to bring an action for declaratory and equitable relief against a state agency or officer of the state for failing to follow procedures for the expenditure of funds.

Effective: Upon passage.

Broden

January 15, 2003, read first time and referred to Committee on Finance.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

SENATE BILL No. 287

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-9.1-1-7 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The board
3 may transfer money between state funds, and the board may transfer
4 money between appropriations for any board, department, commission,
5 office, or benevolent or penal institution of the state. After the transfer
6 is made the money of the fund or appropriation transferred is not
7 available to the fund or the board, department, commission, office, or
8 benevolent or penal institution from which it was transferred.
9 (b) An order by the board to make a transfer under this section is
10 sufficient authority for the making of appropriate entries showing the
11 transfer on the books of the auditor of state and treasurer of state.
12 (c) The authority given the board under this section to make
13 transfers does not apply to trust funds. For the purposes of this section,
14 "trust fund" means a fund which by the constitution or by statute has
15 been designated as a trust fund or a fund which has been determined by
16 the board to be a trust fund.
17 **(d) The transfer of funds, accounts, and appropriations applies**



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1 to every type of transfer of state dollars between funds, accounts,
 2 and appropriations except as specifically provided for in an
 3 appropriation act, or in any other law. If a fund, an account, or an
 4 appropriation is specifically excluded from the transfer process,
 5 the money in the fund, account, or appropriation may not be
 6 transferred by the board.

7 SECTION 2. IC 4-12-1-12 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) Within
 9 forty-five (45) days following the adjournment of ~~the regular~~ a session
 10 of the general assembly **in which a budget is adopted**, the budget
 11 agency shall examine the acts of such general assembly and, with the
 12 aid of its own records and those of the budget committee, shall prepare
 13 a complete list of all appropriations made by law for the budget period
 14 beginning on July 1 following ~~such regular~~ a session **in which a**
 15 **budget is adopted**, or so made for such other period as is provided in
 16 the appropriation. While such list is being made by it, the budget
 17 agency shall review and analyze the fiscal status and affairs of the state
 18 as affected by such appropriations. A written report thereof shall be
 19 made and signed by the budget director and shall be transmitted to the
 20 governor and the auditor of state and shall be mailed to each member
 21 of such general assembly.

22 (b) Not later than the first day of June of each calendar year, the
 23 budget agency shall prepare a list of all appropriations made by law for
 24 expenditure or encumbrance during the fiscal year beginning on the
 25 first day of July of that calendar year. At the same time, the budget
 26 agency shall establish the amount of a reserve from the general fund
 27 surplus which such agency estimates will be necessary and required to
 28 provide funds with which to pay the distribution to local school units
 29 required by law to be made so early in such fiscal year that revenues
 30 received in such year prior to the distribution will not be sufficient to
 31 cover such distribution. Not later than the first day of June following
 32 adjournment of such ~~regular~~ session of the general assembly the
 33 amounts of the appropriations for such fiscal year, and the amount of
 34 such reserve, shall be written and transmitted formally to the auditor of
 35 state who then shall establish the amounts of such appropriations, and
 36 the amount of such reserve, in the records of the auditor's office as
 37 fixed in such communication of the budget agency.

38 (c) Within sixty (60) days following the adjournment of any special
 39 session of the general assembly, or within such shorter period as the
 40 circumstances may require, the budget agency shall prepare for and
 41 transmit to the governor and members of the general assembly and the
 42 auditor of state, like information, list of sums appropriated, and if

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required, an estimate for a reserve from the general fund surplus for distribution to local school units, all as is done upon the adjournment of a regular session, pursuant to subsections (a) and (b) of this section to the extent the same are applicable.

(d) The budget agency shall administer the allotment system provided in IC 4-13-2-18.

(e) The budget agency may transfer, assign and reassign any appropriation or appropriations, or parts of them, excepting those appropriations made to the Indiana state teacher's retirement fund established by IC 21-6.1, made for one specific use or purpose to another use or purpose of the agency of state to which the appropriation is made, but only when the uses and purposes to which the funds transferred, assigned and reassigned are uses and purposes the agency of state is by law required or authorized to perform. No transfer may be made as in this subsection authorized unless upon the request of and with the consent of the agency of state whose appropriations are involved. **The transfer, assignment, or reassignment of funds, accounts and appropriations provided for in this section applies to transfers, assignments, or reassignments except as specifically provided for in an appropriation act, or in any law. If an appropriation, an account, or a fund is specifically excluded from the transfer, assignment, or reassignment process, the money in the appropriation, account, or fund may not be transferred, assigned, or reassigned by the budget agency.** Except to the extent otherwise specifically provided, every appropriation made and hereafter made and provided, for any specific use or purpose of an agency of the state is and shall be construed to be an appropriation to the agency, for all other necessary and lawful uses and purposes of the agency, subject to the aforesaid request and consent of the agency and concurrence of the budget agency.

(f) One or more emergency or contingency appropriations for each fiscal year or for the budget period may be made to the budget agency. Such appropriations shall be in amounts definitely fixed by law, or ascertainable or determinable according to a formula, or according to appropriate provisions of law taking into account the revenues and income of the agency of state. No transfer shall be made from any such appropriation to the regular appropriation of an agency of the state except upon an order of the budget agency made pursuant to the authority vested in it hereby or otherwise vested in it by law.

SECTION 3. IC 4-13-1-18.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 18.1. (a) Under this section, a citizen of**

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1 Indiana may bring an action for declaratory and equitable relief
 2 against a state agency or an officer of the state for failing to follow
 3 the procedures for the expenditure of funds under IC 4-9.1-1-7 or
 4 IC 4-12-1-12.

5 (b) A citizen, as a condition precedent to maintaining an action,
 6 must give notice in writing by registered or certified mail to:

- 7 (1) the budget agency;
- 8 (2) the agency to which the appropriation was made; and
- 9 (3) the attorney general.

10 The attorney general shall promptly notify the budget agency and
 11 the agency to which the appropriation was made.

12 (c) An action under this section must be brought in a circuit or
 13 superior court in Marion County.

14 (d) The court may order the agency to issue the documents
 15 necessary to obtain warrants.

16 SECTION 4. IC 12-10-10-12 IS ADDED TO THE INDIANA
 17 CODE AS A NEW SECTION TO READ AS FOLLOWS
 18 [EFFECTIVE UPON PASSAGE]: **Sec. 12. Appropriations made for**
 19 **the community and home options to institutional care for the**
 20 **elderly and disabled (CHOICE) program established by**
 21 **IC 12-10-10-6 are not subject to:**

- 22 (1) transfers by the state board of finance as allowed under
- 23 IC 4-9.1-1-7(d); and
- 24 (2) transfer, assignment, or reassignment by the budget
- 25 agency as allowed under IC 4-12-1-12(e).

26 SECTION 5. An emergency is declared for this act.

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